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APPLICATION NUMBER FILING DATE FIRST NAMED APPLICANT ATTY. DOCKET NO.

08/888,202 07/07/97 PIMENTEL

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EXAMINER

HM21/0330

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UNCLASSIFIED  
ART UNIT PAPER NUMBER

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DATE MAILED: 03/30/98

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 7/7/97

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 30 days month(s) or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned: (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-25 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
☐ Claim(s) \_\_\_\_\_ is/are allowed.  
☐ Claim(s) \_\_\_\_\_ is/are rejected.  
☐ Claim(s) \_\_\_\_\_ is/are objected to.  
☒ Claim(s) 1-25 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.  
☐ The specification is objected to by the Examiner.  
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.  
☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892  
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
☐ Interview Summary, PTO-413  
☐ Notice of Draftsperson's Patent Drawing Review, PTO-948  
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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1. Claims 1-25 are pending in the application and are currently under prosecution.

2. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

3. The invention is further subject to election of a single disclosed species.

Claims 1, 23 and 25 are generic to a plurality of disclosed patentably distinct species enzymes that decrease absorption of nutrients with different structures and functions wherein the nutrients are (a) lipids (claims 1, 23 and 25), (b) proteins (claims 23 and 25) and (c) carbohydrates (claims 23 and 25). Claims 1-25 will be examined as they are drawn to the elected species.

4. The invention is further subject to election of a single disclosed species.

Claims 1, 23 and 25 are generic to a plurality of disclosed patentably distinct species comprising subjects for decreasing fat absorption, wherein the hosts are different species and genera and the hosts are (a) mammals and (b) avian. Claims 1-25 will be examined as they are drawn to the elected species.

5. The invention is further subject to election of a single disclosed species.

Claims 1, 23 and 25 are generic to a plurality of disclosed patentably distinct species wherein the lipase is of different origins thereby produced in different systems wherein the lipase is of (a) mammal (claim 4), (b) avian (claim 4) and (c) plant origin (claim 4). If species (a) is elected, claim 5 will be examined, if species (b) is elected, claim 6 will be examined, if species (c) is elected, claim 7 will be examined. All of the species are further subject to election of a single disclosed species.

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6. Species (a) of Section 5 is further subject to election of a single disclosed species.

Claims 1, 4 and 5 are generic to a plurality of disclosed patentably distinct species wherein the mammals are different species, with differences in their digestive systems wherein the mammals are (a) human, (b) primates, (c) monogastrics and (c) ruminants, all disclosed in claim 5.

7. Species (b) of Section 5 is further subject to election of a single disclosed species.

Claims 1, 4 and 6 are generic to a plurality of disclosed patentably distinct species wherein the avians are different species, with differences in their digestive systems wherein the avians are (a) chicken, (b) turkey, (c) goose, (d) duck, (e) quail, (f) pheasant, (g) pigeon, all disclosed in claim 6.

8. Species (c) of Section 5 is further subject to election of a single disclosed species.

Claims 1, 4 and 7 are generic to a plurality of disclosed patentably distinct species wherein the plants are different species, with differences in their genetic codes wherein the plants are (a) bacteria, (b) mold, (c) yeast, all disclosed in claim 7.

9. The invention is further subject to election of a single disclosed species.

Claims 1, 8 and 9 are generic to a plurality of disclosed patentably distinct species wherein the antibody is produced in different environments with different method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success wherein the antibodies are produced in (a) avian eggs (claim 8 and 10-13), and (b) in animals with different structures and

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functions (claim 9). If species (a) is elected, species (a) is further subject to election of a single disclosed species. If species (b) is elected species (b) is further subject to election of a single disclosed species.

10. Species (a) of section 9 is further subject to election of a single disclosed species.

Claims 1 and 8 are generic to a plurality of disclosed patentably distinct species wherein the antibody is produced in avian eggs from different species therefore with different structures and functions wherein the species are (a) chicken, (b) duck, (c) goose, (d) turkey, (e) pheasant, (f) quail and (g) pigeon, all disclosed in claim 10.

10. Species (a) of section 9 is further subject to election of a single disclosed species.

Claims 1 and 8 are generic to a plurality of disclosed patentably distinct species wherein the antibody is produced in avian eggs wherein the antibody is obtained from different portions of the egg with different structures and functions, wherein the portions are from (a) unfractionated whole eggs (claim 11), (b) from the yolk of an egg without fractionation thereof (claim 12) and (c) by fractionating the egg yolk resulting in a protein concentrate of pure IgY (chicken immunoglobulin (claim 13).

11. Species (b) of section 9 is further subject to election of a single disclosed species.

Claims 1 and 9 are generic to a plurality of disclosed patentably distinct species wherein the antibody is produced in animals with different structures and functions wherein the animals are (a) monoclonal, (c) plant and (c) bacteria.

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12. The invention is further subject to election of a single disclosed species.

Claims 1 and 14 are generic to a plurality of disclosed patentably distinct species wherein the antibody is processed by different methods which differ at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success wherein the methods are (a) keep the antibody as it was obtained (claim 14) (b) further processed in order to freeze dry, spray dry or encapsulate the antibody claim 14). If species (b) is elected it is further subject to election of a single disclosed species.

13. Species (b) of Section 12 is further subject to election of a single disclosed species.

Claims 1 and 14 are generic to a plurality of disclosed patentably distinct species wherein the antibody is processed by different methods which differ at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success wherein the methods are (a) freeze dried (claim 14), (b) spray dried (claim 14) or (c) encapsulated (claim 14). If species (c) is elected claims 15 and 16 will be examined and claim 16 is further subject to election of a single disclosed species.

14. Species (c) of Section 13 is further subject to election of a single disclosed species.

Claims 1, 14 and 16 are generic to a plurality of disclosed patentably distinct species wherein the encapsulation methods are accomplished by different methods which differ at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success wherein the methods are (a) liposomes (claim 16), (b) protein coating (claim

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16), (c) carbohydrate coating (claim 16), (d) other chemical processes that will coat the antibody.

15. The invention is further subject to election of a single disclosed species.

Claims 1, 17 and 18 are generic to a plurality of disclosed patentably distinct species wherein the antibody containing material is orally fed in different forms which represent different methods which differ at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success wherein the methods are (a) fed by itself as powder form (claim 18), (b) liquid form (claim 18), (c) compressed tablet (claim 18) (d) other type of pill/table like material (claim 18). Claim 19 will be examined if either species (a) or (b) is elected. Claims 17-21 will be examined as they are drawn to the elected species.

16. The invention is further subject to election of a single disclosed species.

Claims 1, 17-20 are generic to a plurality of disclosed patentably distinct species wherein the antibody containing material is orally fed in different forms of prepared foods which represent different methods which differ at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success wherein the methods are

which differ at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success wherein the prepared foods are (a) ready to eat (claim 21), (b) ready to mix (claim 21), (c) concentrate (claim 21), (d) additives (claim 21), (e) refrigerated (claim 21) and (f) frozen (claim 21).

17. The invention is further subject to election of a single disclosed species.

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Claims 1 and 23 are generic to a plurality of patentable distinct species of antibodies that bind enzymes of different structure and function wherein the enzymes are (a) lipase (claim 1), (b) amylase (claim 24), (c) trypsin (claim 24), (d) chymotrypsin (claim 24), (e) protease (claim 24) and (f) other enzymes (claim 24). If any of species (b) through (f) are elected, claim 24 will be examined. Claim 25 will be examined as it is drawn to the elected species.

18. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

19. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (703) 305-2181. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lila Feisee, can be reached at (703) 308-2731. The fax phone number for this Art Unit is (703) 308-4242.

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Communications via Internet e-mail regarding this application, other than those under 35 USC 132 or which otherwise require a signature may be used by the applicant and should be addressed to [lila.feisee@uspto.gov](mailto:lila.feisee@uspto.gov).


All internet e-mail communications will be made of record in the application file. **PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of USC 122.** This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Effective, February 7, 1998, the Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1642.

Susan Ungar

March 23, 1998



LILA FEISEE  
SUPERVISORY PATENT EXAMINER